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Plaintiff

FILED

2007 NOV -5 AM 11:48

RICHARD A. VLEXING
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

HAN SUP SHIN
Plaintiff,
vs.
COUNTY OF ALAMEDA,
ALAMEDA COUNTY SHERIFF'S OFFICE,
ALAMEDA COUNTY DISTRICT
ATTORNEY'S OFFICE,
DEPUTY DISTRICT ATTORNEY COLTON C.
CARMINE, CAPTAIN BURT A. WIKINSIN,
and DOES 1 - 50.
Defendants.

E-filing

Case No. **C07-05605**

JCS

COMPLAINT FOR DAMAGES
DEMAND FOR JURY TRIAL

Han Sup Shin (Han Shin), plaintiff, alleges and brings a civil prosecution for the claims stated herein.

INTRODUCTION

1. On November 9, 2006 Han Shin was arrested by Union City Police at his residence in Union City, California for misdemeanor charges of criminal threat (M422 PC), false imprisonment (M236 PC), and resistance to arrest (M148(a)(1) PC) in his argument with his mother. In that evening about 10:00 PM, he was transferred to Santa Rita Jail, located at 5325 Broder Blvd., Dublin, California, and operated by the County of Alameda. The initial bail set by the Deputy District Attorney and the Sheriff's Office was \$92,500. Upon arriving

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NOTICE OF ASSIGNMENT

TO MAGISTRATE JUDGE SENT

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for Pd

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1 at jail, he was handed a red-colored jail clothes after going through the normal procedure of
2 being fingerprinted, having photo ID taken, etc., and then was placed in a module room,
3 sharing the room with three other inmates. This sharing was due to the fact that there was
4 not an accommodation available at that time. While he was having breakfast on the
5 following morning, an inmate named Mr. Artz approached him and inquired him if he
6 wanted to be his roommate. Han Shin sensed something wrong from him and firmly replied
7 "No!" On the Sunday evening of November 12, 2006, approximately at 9:30 PM, the deputy
8 came to the module room and told Han Shin that he will be placed in another room. He
9 begged and pleaded with the deputy that he would like to stay in a big room with at least
10 three inmates, but the deputy would not listen to him. As he walked into the new room, he
11 noticed an African-American, 6 foot and 3 inches tall, about 40 years old, with an erected
12 penis swinging like a baseball bat in his room. It was Mr. Artz. "Suck my cock!" he said.
13 "What is that you really want?" Han Shin replied. "I want to fuck you!" Mr. Artz said. Han
14 Shin was extremely scared since he declined to be his roommate when Mr. Artz asked him
15 two days ago and reluctantly replied, "If I cooperate, would you leave me alone?" "Yes",
16 Artz answered. Han Shin got down in doggy-style and Artz entered him. The nightmare
17 lasted about 5 minutes. Han Shin was raped for the first time in his life. On the following
18 day, November 13, 2006, Han Shin went to court in Fremont for the initial hearing. Upon
19 returning to the cell, Artz demanded more sex. The next morning, one of the deputies
20 noticed dysfunctional behaviors out of Han Shin and inquired him what was wrong. Han
21 Shin told that he has been raped several times by an inmate. Later that day, he was sent to
22 Highland Hospital in Oakland for treatment of injuries from rape. Upon returning to jail
23 from Highland Hospital, Han Shin attended the court hearing on November 17, 2006 and the
24 judge lowered the bail to \$5,000 in that hearing.

JURISDICTION

- 25
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27 2. The jurisdiction of this Court is invoked under the provisions of 28 U.S.C. §1343(a)(3), 42
28 U.S.C. §1983. This Court also has supplement jurisdiction over any claims arising under

1 state law, pursuant to 28 U. S. C. §1367.

2 VENUE

- 3 3. The wrongful acts and crimes of defendants arose in the Northern District of California.
4 Therefore, venue lies in the United States District of California. (28 U. S. C. §84(a) and
5 §1391(b)(2)).

6 INTER –DISTRICT ASSIGNMENT

- 7 4. All events giving rise to the claims for relief took place in Alameda County, California.
8 Pursuant to Rule 3-2 of the Local Rule of the Northern District of California, the case should
9 be assigned to the Oakland Division.

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11 PARTIES

- 12 5. Plaintiff Han Sup Shin resides in Union City, California.
13 6. On information and belief, it is alleged that defendant the County of Alameda is a municipal
14 corporation, incorporated in the state of California.
15 7. On information and belief, it is alleged that defendant Alameda County Sheriff's Office is a
16 department of the County of Alameda.
17 8. On information and belief, it is alleged that defendant Alameda County District Attorney's
18 Office is a department of the County of Alameda.
19 9. On information and belief, it is alleged that defendant Colton C. Carmine is a Deputy
20 District Attorney in Alameda County District Attorney's Office, employed by Alameda
21 County. Colton C. Carmine is sued in his official and individual capacity.
22 10. On information and belief, it is alleged that defendant Burt A. Wikinsin is a Captain in
23 Alameda County Sheriff's Office, employed by Alameda County. He is the commanding
24 officer of the Santa Rita Jail, which is operated by the County of Alameda. Captain Burt A.
25 Wikinsin is sued in his official and individual capacity.

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27 FIRST CLAIM FOR RELIEF

28 (Violation of U.S. Constitutional Rights and Rights in California Constitution by
"Excessive Bail" & Injuries By Rape)

11. On November 9, 2006 Deputy District Attorney Colton C. Carmine and Sheriff's Office of Alameda County set the initial bail for Han Shin at \$92,500 for the misdemeanor charges when he was arrested and transferred to Santa Rita Jail in that evening. The amount of the bail, which was to be set in accordance with 2006 COUNTYWIDE NON-TRAFFIC MISDEMEANOR AND INFRACTION BAIL SCHEDULE, was instead tortuously and unlawfully set at excessively too high (for his misdemeanor charges) value for Han Shin to be bailed out by his friends or relatives. This "excessive bail" violated his constitutional rights protected by the Eighth and Fourteenth Amendments to the Constitution of the United States. This "excessive bail" also violated his rights protected by California State Constitution Article 1 Section 12. As a consequence, he was forced to be detained and stay in Santa Rita Jail and suffered from physical and emotional injuries when he was raped by an inmate Mr. Artz. In the absence of this violation of "excessive bail", he would have been bailed out by his older brother as soon as he was detained and he would have avoided the rapes by an inmate, since he used to be always bailed out immediately after the detainment by his older brother in his previous detainments.

SECOND CLAIM FOR RELIEF

("Due Process" Clause violation of the Fourteenth Amendment to the U.S. Constitution)

12. On the evening of November 12, 2006, the deputy placed Han Shin in a room with one cellmate although he begged and pleaded with the deputy that he would like to stay in a big room with at least three inmates. By intentionally ignoring Han Shin's request and pleading to be placed in a room with at least three inmates, which he requested in fear of potential physical attacks by an inmate in the absence of other witnesses, the deputy (whose name is not yet known to Han Shin) and Captain Burt A. Wikinsin, the commanding officer in charge of the operation of Santa Rita Jail, allowed the rapes on Han Shin by an inmate to take place on that night and subsequent days. This violated the "due process" clause of the Fourteenth Amendment to the Constitution of the United States. As a consequence of this violation, Han Shin suffered from physical and emotional injuries when he was raped by an inmate Mr. Artz, which could have been avoided in the absence of this violation.

PRAYER FOR RELIEF

13. Han Shin seeks reasonable compensation for the following:

- a. Compensatory damages according to proof;
- b. Punitive damages;
- c. Cost of suit;
- d. Attorney's fees (if attorneys are hired in any stage of this suit);
- e. All other proper relief.

Dated: November 1, 2007



Han Sup Shin

DEMAND FOR TRIAL BY JURY

14. A jury trial is demanded for all claims, defenses, and matters.

Dated: November 1, 2007



Han Sup Shin